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PIER 1 IMPORTS (U.S.), INC. and  
MELLON/PIER 1 PROPERTIES LIMITED  
PARTNERSHIP I

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

RONALD WILSON,

Plaintiff,

v.

PIER 1 IMPORTS (U.S.), INC.;  
MELLON/PIER 1 PROPERTIES LIMITED  
PARTNERSHIP I; and DOES 1 through 10,

Defendants.

Case No. CIV. S-04-0633 LKK CMK

**ORDER GRANTING DEFENDANTS'  
MOTION TO COMPEL**

On August 16, 2005, Defendants' Motion to Compel came on for telephonic hearing. Mark Emmett of the Law Offices of Lyn Hubbard appeared for Plaintiff and Roland Juarez appeared for Defendants Pier 1 Imports and Mellon/Pier 1 Properties Limited Partnership I ( "Defendants").

Having reviewed and considered Defendants' Motion, the exhibits thereto, Plaintiff's counsel's affidavit, and exhibits, and having heard oral argument by counsel for the parties, the Court finds that Plaintiff and his counsel have affirmatively engaged in litigation tactics to avoid providing appropriate discovery responses, and that Plaintiff has failed to comply with this Court's March 28, 2005 Order as outlined in Defendants' Motion.

Finding good cause exists, Defendants' Motion to Compel is hereby GRANTED. Accordingly,

It is hereby ORDERED that Plaintiff's expert Joe Card will appear for deposition on September 1, 2005, at the Holiday Inn in Chico, California, consistent with the notice and subpoena previously served by Defendants. In the event Mr. Card does not appear for deposition, or if additional issues arise related to Mr. Card's deposition, the Court will hold a telephonic hearing prior to the September 15 deadline for discovery motions in this matter, or, in the alternative, will award appropriate sanctions, up to and including striking Mr. Card's expert testimony and expert witness report, and precluding Mr. Card from testifying and offering evidence in this case.

It is further ORDERED that Plaintiff will provide his executed verifications for his February and April 2005 amended interrogatory responses, as outlined in Defendants' Motion, no later than August 26, 2005.

It is further ORDERED that Plaintiff will produce all documents in his possession, custody or control responsive to Defendants' document production requests nos. 7 and 9 relating to lawsuits filed other than in the Eastern District of California during the past five years, and will further amend his written responses to so state no later

than August 30, 2005.

It is further ORDERED that Plaintiff will appear for deposition in the offices of Defendants' attorneys, Akin Gump Strauss Hauer & Feld LLP, located at Three Embarcadero Center, Suite 2800, San Francisco, California 94111-4066, on September 7, 2005, beginning at 10:00 a.m., and continuing day-to-day thereafter until completed. Plaintiff is instructed to answer questions regarding any other litigation, even if outside the Eastern District of California. If Plaintiff does not complete his deposition or discovery disputes arise during his deposition, this Court will hold a telephonic hearing on any such issues prior to September 15, 2005, and will entertain a request for sanctions by Defendants, up to and including precluding Mr. Wilson from testifying and offering evidence in this matter.

IT IS SO ORDERED.

Dated: August 22, 2005

/s/Craig M. Kellison  
**CRAIG M. KELLISON**  
UNITED STATES MAGISTRATE JUDGE